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## **Centers for Medicare & Medicaid Services**

**42 CFR Parts 412, 413, 424, and 476**

**[CMS-1588-CN3]**

**RIN 0938-AR12**

**Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long Term Care Hospital Prospective Payment System and Fiscal Year 2013 Rates; Hospitals' Resident Caps for Graduate Medical Education Payment Purposes; Quality Reporting Requirements for Specific Providers and for Ambulatory Surgical Centers; Corrections**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects technical errors that appeared in the final rule that appeared in the August 31, 2012 **Federal Register** entitled "Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long Term Care Hospital Prospective Payment System and Fiscal Year 2013 Rates; Hospitals' Resident Caps for Graduate Medical Education Payment Purposes; Quality Reporting Requirements for Specific Providers and for Ambulatory Surgical Centers."

**EFFECTIVE DATE:** [Insert date of filing for public inspection.]

### **FOR FURTHER INFORMATION CONTACT:**

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### **SUPPLEMENTARY INFORMATION:**

#### **I. Background**

In FR Doc. 2012-19079 of August 31, 2012 (77 FR 53258) (hereinafter referred to as the FY 2013 IPPS/LTCH PPS final rule), there were technical and typographical

errors that are identified and corrected in the Correction of Errors section of this correcting document. We note that in the October 3, 2012 **Federal Register** (77 FR 60315), we corrected a number of the errors in the FY 2013 IPPS/LTCH PPS final rule including an error in the table regarding the final performance standards for the FY 2015 Hospital Value-Based Purchasing (HVBP) program. (For more detailed information, see sections II.A. and IV.A.11. of the October 3, 2012 correcting document).

## **II. Summary of Errors**

### **A. Errors in the Preamble**

On pages 53601 and 53602, we have determined that there were also errors in the achievement thresholds and benchmark values presented in the Clinical Process of Care measures section of the final performance standards for the FY 2015 HVBP Program table. The omission of the label for the HF-1 measure resulted in the performance standards for all subsequent measures being shifted up one line each. The table now reflects the corrections for all finalized Clinical Process of Care measures.

### **B. Errors in the Addendum**

On page 53695, we made typographical errors in the charge inflation factor for the FY 2013 IPPS outlier threshold.

## **III. Waiver of Proposed Rulemaking and Delay of Effective Date**

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary

finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

In our view, this correcting document does not constitute a rule that would be subject to the APA notice and comment or delayed effective date requirements. This correcting document corrects technical and typographical errors in the preamble and addendum, but does not make substantive changes to the policies or payment methodologies that were adopted in the final rule. As a result, this correcting document is intended to ensure that the preamble and addendum, accurately reflects the policies adopted in that final rule.

In addition, even if this were a rule to which the notice and comment and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the final rule or delaying the effective date would be contrary to the public interest. Furthermore, such procedures would be unnecessary, as we are not altering the policies that were already subject to comment and finalized in our final rule. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

#### IV. Correction of Errors

In FR Doc. 2012-19079 of August 31, 2012 (77 FR 53258), make the following corrections:

##### A. Corrections of Errors in the Preamble

1. On pages 53601 and 53602, the table entitled "FINAL PERFORMANCE STANDARDS FOR THE FY 2015 HOSPITAL VBP PROGRAM CLINICAL PROCESS OF CARE, OUTCOME, AND EFFICIENCY DOMAINS," the entries for the clinical process of care measures are corrected as follows:

<b>Clinical Process of Care Measures</b>			
<b>Measure ID</b>	<b>Description</b>	<b>Achievement Threshold</b>	<b>Benchmark</b>
AMI-7a	Fibrinolytic Therapy Received Within 30 Minutes of Hospital Arrival	0.80000	1.00000
AMI-8a	Primary PCI Received Within 90 Minutes of Hospital Arrival	0.95349	1.00000
HF-1	Discharge Instructions	0.94118	1.00000
PN-3b	Blood Cultures Performed in the Emergency Department Prior to Initial Antibiotic Received in Hospital	0.97783	1.00000
PN-6	Initial Antibiotic Selection for CAP in Immunocompetent Patient	0.95918	1.00000
SCIP-Card-2	Surgery Patients on Beta-Blocker Therapy Prior to Arrival Who Received a Beta-Blocker During the Perioperative Period	0.97175	1.00000
SCIP-Inf-1	Prophylactic Antibiotic Received Within One Hour Prior to Surgical Incision	0.98639	1.00000
SCIP-Inf-2	Prophylactic Antibiotic Selection for Surgical Patients	0.98637	1.00000
SCIP-Inf-3	Prophylactic Antibiotics Discontinued Within 24 Hours After Surgery End Time	0.97494	1.00000
SCIP-Inf-4	Cardiac Surgery Patients with Controlled 6AM Postoperative Serum Glucose	0.95798	0.99767
SCIP-Inf-9	Urinary Catheter Removed on Postoperative Day 1 or Postoperative Day 2	0.94891	0.99991
SCIP-VTE-2	Surgery Patients Who Received Appropriate Venous Thromboembolism Prophylaxes Within 24 Hours Prior to Surgery to 24 Hours After Surgery	0.97403	0.99998

##### B. Correct of Errors in the Addendum

1. On page 53695, third column, first paragraph, line 2, the figures "8.94 percent

(1.0866203)" are corrected to read "8.66 percent (1.0866203)".

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare--Hospital Insurance; and Program No. 93.774, Medicare--Supplementary Medical Insurance Program)

Dated: October 18, 2012

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Oliver Potts,  
Deputy Executive Secretary to the  
Department  
Department of Health and Human  
Services.

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